

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

SPORTVISION, INC.,

NO. C 04-03115 JW

Plaintiff,

v.

SPORTSMEDIA TECHNOLOGY  
CORPORATION,

Defendant.

**ORDER DENYING SPORTSMEDIA'S  
MOTION FOR A DETERMINATION OF  
"EXCEPTIONAL CASE" UNDER 15  
U.S.C. § 1117(a)**

On August 29, 2005, Defendant SportsMEDIA Technology ("SportsMEDIA") filed a Motion for a Determination of "Exceptional Case" under 15 U.S.C. § 1117(a). SportsMEDIA requests the Court to declare this case "exceptional" because Plaintiff Sportvision allegedly improperly asserted a fraudulently obtained trademark against SportsMEDIA. A hearing on SportsMEDIA's motion is set for October 3, 2005. However, the Court finds it appropriate to take the motion under submission without oral argument pursuant to Civil Local Rule 7-1(b). Based on the arguments advanced by counsel in their briefs, the Court declines to declare this case "exceptional" under 15 U.S.C. § 1117(a) because Sportvision's case was not groundless, unreasonable, vexatious, or pursued in bad faith. See Stephen W. Boney, Inc. v. Boney Services, Inc., 127 F.3d 821, 827 (9th Cir.1997) (quoting Scott Fetzer Co. v. Williamson, 101 F.3d 549, 555 (8th Cir.1996)).

Dated: September 22, 2005

04cv3115exceptional

/s/James Ware

JAMES WARE

United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

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15 **Dated: September 22, 2005**

**Richard W. Wieking, Clerk**

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**By: /s/JW Chambers**  
**Ronald L. Davis**  
**Courtroom Deputy**